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Docket No.: 826.1431

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re the Application of:

Hiroshi HARUKI et al.

Serial No. 08/971,903

Group Art Unit: 3622

Confirmation No. 4920

Filed: November 17, 1997

Examiner: James W. Myhre

For: COMPUTER-RELATED PRODUCT USER MANAGEMENT AND SERVICE SYSTEM

SUBSTITUTE APPEAL BRIEF

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

This Substitute Appeal Brief is submitted in response to the Notification of Non-Compliant Appeal Brief mailed May 11, 2005.

I. Real Party in Interest

The inventors, Hiroshi Haruki, Toshiko Nagayama, Eiichi Hattori and Tadashi Akutagawa, assigned all rights in the subject application to Fujitsu Limited on September 16, 1997 according to the Assignment executed September 16, 1997 and submitted for recordation on November 17, 1997. Therefore, the real party in interest is Fujitsu Limited.

II. Related Appeals and Interferences

There are no related appeals or interferences known to Appellants, Appellants' legal representatives or the Assignee, Fujitsu Limited, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status of Claims

Claims 7 and 9 have been canceled, claims 1-6, 8 and 10-20 are pending in the application and are being appealed. Claims 1-6, 8 and 10-20 stand rejected under 35 USC § 103(a).

IV. Status of Amendments

An Amendment was filed June 14, 2004 in response to the Office Action dated March 11, 2004. The August 16, 2004 Office Action indicated that the June 14, 2004 Amendment was considered and therefore, presumably was entered.

V. Summary of Claimed Subject Matter

The present invention is directed to a product user management and service system. In the embodiment illustrated in Figs. 4-7, the registration process for software product 14 is started when user registration tool invoking module 40 is executed by user PC 10 (page 19, lines 9-17; page 21, lines 9-18; and page 23, lines 10-12). User information registration and using status notification module 41 in user registration/reference tool 15 transmits personal information about the user and software registration to user information and using status data obtaining module 45 in server 44 at user registration centre 13 (page 19, lines 18-23; page 23, lines 19-23). The user information and using status data obtaining module 45 stores the personal information and registration information in respective master databases 54, 55 and database 57a, 57b or 57c maintained for the software vendor of software product 14 (page 19, line 23 to page 20, line 7; and page 24, lines 10-14). User information and using status data obtaining module 47 in vendor registration/reference tool 19 of software product vendor PC/WS 11 obtains the personal information and registration information from the vendor database 57a, 57b or 57c (page 20, line 21 to page 21, line 1; and page 24, lines 23-25). Information registration module 48 in software product vendor PC/WS 11 transmits the latest information about registered software product 14 to server 44 at user registration center 13 which stores this information in "each vendor" (page 25, line 5) database 57a-57c and vendor information master database 56 (page 21, lines 1-8; and page 25, lines 1-5).

Using status monitor module 21 determines the number of times software product 14 is executed by user PC 10 and after a predetermined number of uses causes information obtaining and reference module 42 to request information distributing module 46 in server 44 of the user registration centre 13 to distribute the latest information about software product 14 from the

software vendor (page 21, line 19 to page 22, line 11; page 23, lines 13-15; and page 25, line 18 to page 26, line 8). In response, information distributing module 46 extracts information from the appropriate vendor database 57a, 57b or 57c using master databases 55 and 56 and transmits the extraction result to information obtaining and reference module 42 in user PC 10 for display to the user and storage in information file 53 (page 22, lines 12-23; and page 26, lines 11-25).

Information maintained by user PC in information files 51-53 is illustrated in Figs. 11-13 and described at page 33, line 17 to page 34, line 12. Included in software registration information file 52 is the requested information type (page 34, line 1 to page 35, line 6). Information "type C refers to linkage information used when a software product is linked with another vendor software product" (page 35, lines 3-5). Information maintained by user registration centre 13 in master databases 54-56 is illustrated in Figs. 14-16 and described at page 35, line 13 to page 36, line 12. Included is a related software code for information type C in which information is provided by another vendor (page 36, lines 9-12).

VI. Grounds of Rejection to be Reviewed

In the final Office Action dated August 16, 2004, the Examiner rejected claims 1-6, 8 and 10-20 under 35 USC § 103(a) U.S. Patent 5,867,714 to Todd et al. in view of U.S. Patent 5,845,077 to Fawcett.

VIII. Argument

Disclosures in Prior Art

On pages 2-7 of the Office Action, claims 1-8 and 10-20 were rejected under 35 USC § 103(a) as unpatentable over Todd et al. in view of Fawcett. As discussed in the Amendments filed February 19, 2002; July 21, 2003; and June 14, 2004, and the Request for Reconsideration filed February 10, 2004, Todd et al. discloses a system which detects and avoids faults or conflicts stemming from hardware and software configurations in a computer system. A database stores information from a number of vendors, and information (such as software fixes) is transmitted from the vendor to the database. This database allows "a manufacturer to track how its customers are using their computers, giving the manufacturer specific access and insight to its customers' needs and allowing the manufacturer to target its customer base with appropriate advertising." (Todd et al., column 4, lines 37-42, emphasis added).

At the bottom of page 3 of the Office Action, the Examiner asserted that the reference to the AT&T Tourguide Tutorial and Microsoft Word for Windows in the list of installed software at column 11, lines 34-40 and the subsequent discussion of the AT&T Tourguide Tutorial at column 12, lines 24-42 "implied that the information is provided to a vendor other than the vendor of the software product being used by the user." First, as discussed in the Request for Reconsideration filed February 10, 2004, at the time of filing of Todd et al. the assignee of Todd et al. was a division of AT&T and thus, the AT&T Tourguide Tutorial was not from a vendor different than the vendor of the manufacturer of the user's computer (assuming the user's computer was manufactured by the assignee of Todd et al.). Second, it is submitted that this implication is only in the mind of the Examiner who has read the subject application and that one of ordinary skill in the art would find no suggestion by Todd et al. of transmitting user registration information to anyone other than the manufacturer of the user's computer. The mere fact that the user's computer stores software from multiple vendors, as discussed on page 4, lines 11-19 of the August 16, 2004 Office Action, does not create an implication that operations are performed that are not mentioned. In accordance with *In re Zurko*, 250 F.3d 1379, 59 USPQ2d 1693 (Fed. Cir. 2001), substantial evidence must be provided that it would be obvious to perform the additional operation of sending information "to a vendor other than the vendor of the software product being used by the user."

In the second paragraph of the Response to Arguments on page 7 of the August 16, 2004 Office Action, it was asserted "that the registration database manages warranty information on the software currently on the user's computer" (page 7, lines 11-12). No other mention of "warranty information" has been found in the August 16, 2004 Office Action and there is no citation to where Todd et al. teaches managing "warranty information on the software currently on the user's computer." The only mention of "warranty information" found in Todd et al. is at column 12, line 64. Nothing was cited or has been found in the last full paragraph of column 12 of Todd et al. or anywhere else suggesting that the "warranty information" is for multiple vendors, i.e., that the "warranty obligations" (column 12, line 65) managed by the system taught by Todd et al. includes anything from someone other than the manufacturer of the user's computer.

In the rejection, Fawcett was relied on as suggesting "a central update service center which contains software products and files from vendors other than the vendor which developed the software application currently being tracked on the user's system" (Office Action, page 4, last 3 lines). As discussed in the June 14, 2004 Amendment, no statement that another vendor's software is offered to a user was cited in Fawcett and thus, the quoted statement is an assertion

by the Examiner of what would be obvious to one of ordinary skill. The Appellants note that Fawcett is assigned to Microsoft which is well known for **not** offering other vendors' software.

Claim 1

Claim 1 recites that the present invention operates in a manner significantly different from that described by Todd et al. and Fawcett even if it is assumed that the summary provided to the user of the system taught by Fawcett includes software from multiple vendors. Specifically, claim 1 recites vendor registration/reference means exemplified by, e.g., information registration module 48 in Fig. 5. In addition, claim 1 recites that the new information about the computer-related products is "provided from said vendor registration/reference means" (claim 1, line 21) and that

the user registration information and the user status information ...
is transmitted from the user information general management
means to the vendor registration/reference means of a vendor of
the particular software product **and to another vendor** that sells
products that may be of interest to users of the particular software
product

(claim 1, lines 26-30, emphasis added), as indicated by, e.g., block S11 in Fig. 6 and as described at page 25, lines 3-5 and page 34 line 20 to page 35, line 6. This enables each vendor to make its own determination regarding what software to inform the user about, instead of relying on the intermediary update service center to make that determination about software which the operator of the update service center may know little about. Thus, the present invention provides the benefit of providing information from the most knowledgeable source of information about the software that is described to the user. Since nothing has been cited or found in Todd et al. or Fawcett regarding the operations described on the last five lines of claim 1, it is submitted that claim 1 and claims 2-6 and 8 which depend therefrom, patentably distinguish over Todd et al. in view of Fawcett for the reasons discussed above.

Claims 10-13 and 16-20

Claims 10-13, 16, 18 and 19 similarly recite limitations like, "the using status information ... is transmitted from the user information general management means to a different vendor other than the software product's vendor" (e.g., claim 10, first three lines of last indented paragraph). Since claim 17 depends from claim 16 and claim 20 depends from claim 19, it is submitted that claims 10-13 and 16-20 patentably distinguish over Todd et al. in view of Fawcett for the reasons discussed above.

Claims 14 and 15

Claim 14 recites the invention from the point of view of a "terminal apparatus of a vendor" (claim 14, line 1) and recites that "the terminal apparatus can use the user registration information and the using status information from a user of a product of a **different vendor**" (claim 14, lines 14-15, emphasis added) and claim 15 recites a similar limitation. Therefore, it is submitted that claims 14 and 15 patentably distinguish over Todd et al. in view of Fawcett for the reasons discussed above.

Summary of Arguments

For the reasons set forth above and in the Amendments filed during prosecution of the application, it is submitted that claims 1-6, 8 and 10-20 patentably distinguish over Todd et al. in view of Fawcett. Thus, it is respectfully submitted that the Examiner's final rejection of the claims is without support and, therefore, erroneous. Accordingly, the Board of Patent Appeals and Interferences is respectfully urged to so find and to reverse the Examiner's final rejection.

Please charge the required fee of \$340 to our Deposit Account No. 19-3935. If any additional fees are required, please charge same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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IX. Appendix

1. A computer implemented management system, which manages registration of computer-related products, including hardware and software products, comprising:

user information general management means for generally managing user registration information, about users of hardware and software products, and using status information thereof transmitted from the user;

user registration/reference means that interfaces with the users, for notifying said user information general management means of the user registration information and the using status information at a request of the user and the using status information; and

vendor registration/reference means for receiving the user registration information and the using status information from said user information general management means and for providing new information about computer-related products to said user information general management means,

wherein the user registration information includes personal information about each user containing an identification number of each user and registration information containing a type of information which is requested by the users with regard to the computer-related products, said type of information can include information about products which can be used in combination with products that are used by the users and available from a plurality of vendors, and said type of information further signifies a difference in vendor of said products that can be used in combination with products that are used by the user, in terms of whether the vendor is the same as the vendor of the products that are used by the user, and

the new information provided from said vendor registration/reference means about the computer-related products from a vendor side of the computer-related products is extracted, depending on information extraction condition containing a requested information type in the registration information, and is transmitted to said user registration/reference means from said user information general management means to provide the new information, and

the user registration information and the using status information, including a number of times a particular software product is used by the user, is transmitted from the user information general management means to the vendor registration/reference means of a vendor of the particular software product and to another vendor that sells products that may be of interest to users of the particular software product.

2. The system according to claim 1, wherein
said user registration/reference means requests at a request from the user said user information general management means to provide new information about the computer-related product from a vendor of the computer-related product.

3. The system according to claim 1, wherein the computer-related product is a software product, and said user registration/reference means is common to each of a plurality of software products;

when any of the plurality of software products is installed by a user, the user registration/reference means is also installed; and

after installation, said user registration/reference means issues a notification about the user registration information and using status information for the plurality of software products which are installed, and submits a request for new information about the software product.

4. The system according to claim 1, wherein said user registration information comprises:

personal information about each user including an identification number of each user; and

registration information containing a type of information requested by the user about a computer-related product; and

said user information general management means extracts the new information depending on information extraction condition containing a requested information type in the registration information at a request for new information about a computer-related product from said user registration/reference means, and transmits the new information to said user registration/reference means.

5. The system according to claim 1, wherein the computer-related product is a software product and the using status information contains the number of times the software product was started; and

said user information general management means transmits new information about the software product to said user registration/reference means depending on the number of times the software product was started.

6. The system according to claim 1, wherein the computer-related product is a software product and the using status information contains the number of times the software product was started; and

said user registration/reference means requests said user information general management means to provide new information about the software product when the number of times the software product was started has reached a predetermined value.

8. The system according to claim 1, wherein said vendor registration/reference means specifies a type of new information when new information about the computer-related product is available; and

said user information general management means compares the type of information requested by the user with the type specified by said vendor registration/reference means, and when both types coincide, transmits the new information to said user registration/reference means at a request from said user registration/reference means when the requested information is available.

10. A management apparatus which manages user information about a computer-related product used by a user terminal connected through a network, comprising:

a user information general management means for managing using status information and a requested information type provided by the user terminal about a product used by a user;

a product information management means for managing product information provided by a vendor of the computer-related product including product information about additional products that can be used with a particular product; and

a product information notification means for referring to a product used by each user managed by said user information general management means and for providing product information managed by said product information management means about a product used by a user which corresponds to the products available from a plurality of vendors that can be used with the product used by the user and match the user's requested information type, wherein said requested information type further signifies a difference in vendor of said products that can be used in combination with products that are used by the user, in terms of whether the vendor is the same or not with the vendor of the products that are used by the user, and

the using status information, including a number of times a particular software product is used by the user, is transmitted from the user information general management means to a different vendor other than the software product's vendor, that sells products that may be of interest to users of the particular software product.

11. A computer-readable storage medium encoded with software to cause a computer to perform a process comprising:

managing using status information and a requested information type provided by a user terminal about a product used by a user;

managing product information provided by a computer-related product vendor including product information about additional products available from a plurality of vendors that can be used with a particular product, wherein said requested information type further signifies a difference in vendor of said products that can be used in combination with products that are used by the user, in terms of whether the vendor is the same or not with the vendor of the products that are used by the user;

referring to the using status information and providing product information about additional products that can be used with the product used by a user and which corresponds to the requested information type at a product information request from the user terminal; and

transmitting the using status information, including a number of times a particular software product is used by the user, to a different vendor other than the software product's vendor, that sells products that may be of interest to users of the particular software product.

12. A user terminal apparatus comprising:

a user information notification means for notifying an external unit of user registration information and using status information including a product used by a user and a requested information type about the computer-related product; and

a product information reference means for requesting an external unit for new information about the computer-related product which corresponds to the requested information type from a computer-related product vendor and information on additional products available from a plurality of vendors that can be used with the product used by the user, and said requested information type further signifies a difference in vendor of said products that can be used in combination with products that are used by the user, in terms of whether the vendor is the same or not with the vendor of the products that are used by the user,

a using status transmitting means transmitting the using status information, including a number of times a particular software product is used by the user, to a different vendor other than the software product's vendor, that sells products that may be of interest to users of the particular software product.

13. A computer-readable storage medium encoded with software for causing a computer to perform a process comprising:

notifying an external unit of user registration information and using status information including a product used by a user and a requested information type about a computer-related product used by a user; and

requesting an external unit for new information about the computer-related product which corresponds to the requested information type from a vendor of the computer-related product and information on additional products available from a plurality of vendors that can be used with the product used by the user, and said requested information type further signifies a difference in vendor of said products that can be used in combination with products that are used by the user, in terms of whether the vendor is the same or not with the vendor of the products that are used by the user,

transmitting the using status information, including a number of times a particular software product is used by the user, to a different vendor other than the software product's vendor, that sells products that may be of interest to users of the particular software product.

14. A terminal apparatus of a vendor comprising:

a user information reference means for obtaining, from an external unit, user registration information including a requested information type and using status information including a product used by the user, transmitted from a user of a computer-related product; and

a product information notification means for notifying an external unit of new information about the computer-related product, if the new information about the computer-related product corresponds to the requested information type, the new information including additional products of the vendor itself that can be used with the product used by the user, and said requested information type further signifies a difference in vendor of said products that can be used in combination with products that are used by the user, in terms of whether the vendor is the same or not with the vendor of the products that are used by the user,

a using status information receiving means receiving the using status information, including a number of times a particular software product is used by the user,

wherein, the terminal apparatus can use the user registration information and the using status information from a user of a product of a different vendor rather than the vendor itself, that sells products that may be of interest to users of the particular software product.

15. A computer-readable storage medium encoded with software to cause a computer of a vendor to perform a process comprising:

- obtaining, from an external unit, user registration information including a requested information type, and using status information about usage of a product by a user, transmitted from the user of a computer-related product;

- notifying an external unit of new information about the computer-related product, if the new information about the computer-related product corresponds to the requested information type, the new information including additional products of the vendor itself that can be used with the product used by the user, and said requested information type further signifies a difference in vendor of said products that can be used in combination with products that are used by the user, in terms of whether the vendor is the same or not with the vendor of the products that are used by the user; and

- receiving the using status information, including a number of times a particular software product is used by the user,

- wherein, the computer-readable storage medium is used by a computer that can use the user registration information and the using status information from a user of a product of a different vendor rather than the vendor itself, that sells products that may be of interest to users of the particular software product.

16. A computer implemented management system, which manages registration of computer-related products, comprising:

- a user information general management module generally managing user registration information including a requested information type, and using status information including a product used by a user, transmitted from a user of the computer-related product; and

- a user registration/reference module that interfaces with a user of the computer-related products notifying said user information general management module of the user registration information and the using status information and information about additional products available from a plurality of vendors that can be used with the product used by the user at a request of the user who uses a computer-related product related to the user registration information and the using status information and which corresponds to the requested information type,

wherein said requested information type further signifies a difference in vendor of said products that can be used in combination with products that are used by the user, in terms of whether the vendor is the same or not with the vendor of the products that are used by the user;

a using status information module transmitting the using status information, also including a number of times a particular software product is used by the user, to a different vendor other than the software product's vendor, that sells products that may be of interest to users of the particular software product; and

a vendor registration/reference module receiving the user registration information and the using status information from said user information general management module and providing new information about computer-related products to said user information general management module.

17. The system according to claim 16, wherein

the computer-related product is a software product, and said user registration/reference module is common to each of a plurality of software products;

when any of the plurality of software products is installed by a user, the user registration/reference module is also installed; and

after installation, said user registration/reference means issues a notification about the user registration information and using status information for the plurality of software products which are installed, and submits a request for new information about the software product.

18. A user registration center managing and distributing information provided by both a user and a vendor comprising:

a database receiving, from the vendor product information about a product and additional product information about additional products that can be used with the product;

the database receiving, from the user, user information which includes a product used by the user and a requested information type from the user; and

a distributing module, automatically distributing to the user, additional product information corresponding to the additional products available from a plurality of vendors that can be used with the product used by the user and which match the user's requested information type, wherein said requested information type further signifies a difference in vendor of said products that can be used in combination with products that are used by the user, in

terms of whether the vendor is the same or not with the vendor of the products that are used by the user,

a using status information module transmitting the user information, also including a number of times a particular software product is used by the user, to a different vendor other than the software product's vendor, that sells products that may be of interest to users of the particular software product.

19. A method of managing and distributing information provided by both a user and a vendor, comprising:

receiving, from the vendor, product information about a product and additional product information about additional products that can be used with the product;

receiving, from the user, user information which includes a product used by the user and a requested information type from the user;

storing the product information about a product and additional product information about products available from a plurality of vendors that can be used with the product and the user information which includes a product used by the user and the requested information type from the user, all in a database, wherein said requested information type further signifies a difference in vendor of said products that can be used in combination with products that are used by the user, in terms of whether the vendor is the same or not with the vendor of the products that are used by the user;

distributing the additional product information to a user automatically corresponding to the additional products that can be used with the product used by the user and which match the user's requested information type; and

distributing the user information, also comprising a number of times a particular software product is used by the user, to a different vendor other than the software product's vendor, that sells products that may be of interest to users of the particular software product.

20. The additional product information distributed to the user as claimed in claim 18, wherein said additional product information distributed to the user includes a plurality of product information correlating to products used by the user as indicated by the user information.